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September 23, 2021

VIA CM/ECF

Honorable Leonard P. Stark
J. Caleb Boggs Federal Building
844 N. King Street, Unit 26, Room 6124
Wilmington, DE 19801-3555

Re: *Nippon Shinyaku Co. v. Sarepta Therapeutics, Inc.*, C.A. No. 1:21-cv-01015-LPS

Dear Judge Stark:

We represent plaintiff Nippon Shinyaku Co., Ltd. (“Nippon Shinyaku”) in the above-referenced action and write to respectfully request that the Court hold oral argument regarding Nippon Shinyaku’s Motion for Preliminary Injunction (D.I. 4) (the “Motion”) in the next few weeks as the Court’s schedule permits. Briefing on this Motion closed on August 25, 2021 (*see* D.I. 25), and both parties have requested that the Court hear oral argument regarding this Motion (*see* D.I. 26 & 27).

Nippon Shinyaku submits expedited scheduling of oral argument regarding its Motion is warranted here given that, its Motion seeks to have the Court require defendant Sarepta Therapeutics, Inc. (“Sarepta”) to withdraw its seven previously-filed petitions for *inter partes* review of the asserted patents (U.S. Patent Nos. 9,708,361; 10,385,092; 10,407,461; 10,487,106; 10,647,741; 10,662,217; and 10,683,322) (the “IPR Petitions”) because Nippon Shinyaku submits these IPR Petitions were filed in breach of a contractual clause.

These IPR Petitions remain pending at the Patent Trial and Appeal Board (“PTAB”). Absent Court intervention, Nippon Shinyaku and the PTAB will soon need to take actions in response to these seven IPR Petitions. Specifically, Nippon Shinyaku’s deadline for filing its Patent Owner’s Preliminary Responses to the IPR Petitions ranges from October 8, 2021 – November 17, 2021, with the majority of Nippon Shinyaku’s responses due on October 20 and 21. Despite the pending Motion, Sarepta has refused to stipulate to an extension of time for Nippon Shinyaku to respond to the IPR Petitions with the earliest October 8, 2021 deadline. Once Nippon Shinyaku files its responses, the PTAB will have three months to evaluate each of the petitions and responses and issue its decision regarding whether to institute review on any of these patents, which will require a significant investment of time and resources from the PTAB. *See* 35 U.S.C. § 314(b).

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Given these forthcoming deadlines in connection with the IPR Petitions and the PTAB's forthcoming investment of resources absent relief from this Court, Nippon Shinyaku requests that the Court hold oral argument regarding the Motion prior to October 7, 2021 insofar as the Court's schedule allows or as soon thereafter as is practicable.

Respectfully submitted,

/s/ Amy M. Dudash

Amy M. Dudash (DE Bar No. 5741)

cc: All Counsel of Record (via CM/ECF)